

Appl. No. 10/821,052  
Amdt. date May 14, 2007  
Reply to Office action February 14, 2007

### REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for carefully considering this application.

Claims 1, 6-9, 11 and 15-18 are in this application. Applicants have amended claims 1, 10 and 11. Applicants have canceled claims 2, 3, 6-9, 12, 13 and 16-18.

### Claim Rejections

Claims 1 and 11 are rejected under 35 USC 102(b) as being unpatentable over Glisic et al. (US Patent 5,754,541). Applicants respectfully traverse the Examiner's assertion.

Applicants' invention describes is a method and system that determines the connection availability of a mobile or cellular device to the communication network in the current location of the mobile or cellular device. The system of the present invention monitors the current connection capacity of the tower. This monitoring process would involve establishing the maximum call connection capability of the tower. This process also maintains a current count of the number of calling devices that are connected through the tower. As the number of connections increases toward the maximum number of connections, the tower will begin to broadcast messages to mobile and cellular telephone devices in the area of the tower the current connection capability to that tower. As the number of connections increase toward the maximum number, a particular broadcast will be in relation to a particular threshold level that the number of calls has exceeded. The mobile or cellular devices would receive the message and display the information to the device user. With this information, the user could decide whether to continue to attempt to call via the tower or to wait to a later time or until the caller is in another area than the current calling tower.

As Examiner has mentioned, Glisic fails to disclose the step of establishing multiple threshold levels. Therefore, therefore the rejection of the claims under 35 U.S.C. 102 (b) is not supported and shown be withdrawn.

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Claims 6-9 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatented over Glisic et al. in view of Sauter et al. (U.S. publication 2004/0209623)

Sauter describes a public land mobile network comprising a base station, which broadcasts a signal to all subscribers comprising selected access classes, which are barred from access to the network upon receipt of the signal. The load condition of the network is checked in regular time periods, and the number of barred access classes is increased or decreased dependent on whether a load threshold value is exceeded or not. Each time period is divided in a plurality of sub-intervals in which a rotation of the selected access classes is made to evenly distribute the bar to access onto the plurality of subscribers.

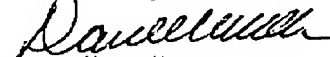
Sauter describes a lower threshold and an upper threshold value. However, these thresholds establish a range of connectivity congestion. As stated in Sauter, nothing happens when the connectivity activity passes (exceeds) the lower threshold value. Once the connectivity passes the higher threshold value, congestion begins. Based on the figures in Sauter, the congestion state remains until the connectivity falls below the lower threshold value. However, unlike the present invention, nothing happens when the activity initially exceeds the lower threshold value. As a result, identifying a lower threshold value alone has no effect on the ability to influence connectivity to the system. When compared to the present invention, the threshold values together only establish a congestion range. These threshold levels do not individually affect the connectivity. These thresholds only work together.

To establish a prima facie case of obviousness, there must some teaching or suggestion to combine the references. Therefore, Applicants assert that there is no establishment of prima facie obviousness as a result of a combination of Glisic with Sauter. Glisic defines one threshold level. Sauter defines a range established by two threshold values. There is nothing in Glisic that teaches or suggest combining Glisic with Sauter. Further, Applicants assert that a combination of the teachings of Glisic with Sauter will not produce the method and system of Applicants' present invention. The combination of Glisic and Sauter will produce the multiple thresholds and the varied broadcast responses to each threshold level as described in Applicants' present invention.

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In view of the above explanation, Applicants respectfully submit that none of the art of record (alone or in combination) teaches, discloses or even suggests the invention as recited in each of Applicant's claims. Applicant further submits that all of the pending claims are in condition for allowance. Withdrawal of the rejections and passage to issuance is respectfully requested. Applicant believes this reply to be fully responsive to all outstanding issues and place this application in condition for allowance. If this belief is incorrect, or other issues arise, do not hesitate to contact the undersigned at the below listed telephone number.

Respectfully Submitted,



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